

### REMARKS

Applicants wish to thank Examiner Chism for kindly taking time to discuss this application with the undersigned representative on August 3, 2005, and particularly for his helpful suggestions regarding claim amendment.

#### **I. Status of the Claims**

Claims 1-36 were originally filed and claims 37-64 were later added. Claims 1-4, 16-25, 28-32, and 34-36 were subsequently canceled. Upon entry of the present amendment, claims 33, 41-45, 49-51, and 57-61 are canceled. Claims 5-7, 12-15, 37, 40, and 52-56 are amended to replace the term "directly available tyrosine" with the term "free amino acid tyrosine," which finds support in the specification, *e.g.*, in the paragraph bridging pages 4 and 5, and particularly on page 5, line 6. Claim 52 is also amended to recite "wherein the animal is a cat or a dog," support for which can be found throughout the specification, *e.g.*, on page 8, lines 21-28.

Because Applicants in good faith believed that the present amendment would not be necessary to overcome the rejections raised in the Office Action mailed December 15, 2004, this amendment was not submitted in Applicants' response of March 3, 2005. Since the present amendment introduces no new matter and requires no new search, its entry is respectfully requested.

#### **II. Claim Rejections**

##### **A. 35 U.S.C. §112, Second Paragraph**

##### *"Directly Available" and "Indirectly Available"*

The Examiner maintained the rejection of claims 5-7, 10-15, 37-41, and 52-64 under 35 U.S.C. §112, second paragraph, alleging indefiniteness for reciting the terms "directly available" and/or "indirectly available." Applicants respectfully traverse the rejection in light of the present amendment.

As amended, the pending claims no longer recite the term "directly available." In its place, the term "free amino acid" is used. Applicants submit that this term has clear plain meaning and does not lead to any potential confusion. The term "indirectly available" remains in the claim language, because its meaning is clear and unambiguous in light of the description in the bridging paragraph between pages 4 and 5, where it is stated that, "The tyrosine and phenylalanine amino acids may be provided directly or in *an indirect form such as in peptides, polypeptides, proteins, and acyl or amide derivatives that can be hydrolyzed (digested by the animal or by other appropriate means) into the suitable free amino acids.*" The indefiniteness rejection on this ground is thus overcome.

*"Bioavailable"*

Claims 33, 41-45, 49-51, and 57-61 were also rejected for alleged indefiniteness for the recitation of the phrase "bioavailable." Although Applicants respectfully disagree with the Examiner, to expedite prosecution, all claims reciting the term "bioavailable" have now been canceled. The indefiniteness rejection on this particular ground is thus moot. Applicants respectfully request that all rejections under 35 U.S.C. §112, second paragraph, for alleged indefiniteness be properly withdrawn, in light of the above discussions.

B. 35 U.S.C. §112, First Paragraph

The Examiner further rejected claims 52-64 under 35 U.S.C. §112, second paragraph, stating that although the specification is enabling for the claimed method for maintaining or restoring hair color in cats or dogs, it does not reasonably enable a method for maintaining or restoring hair color in other animals. In response, claim 52 has been amended to recite "wherein the animal is a cat or a dog." This rejection of claim 52 and its dependent claims (53-64) is thus overcome.

Appl. No. 09/776,216  
Amdt. dated August 10, 2005  
Amendment under 37 CFR 1.116 Expedited Procedure  
Examining Group 1654

PATENT

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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